



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appl.: Jonathan W. Nyce : Art Unit: 1635
Serial No.: 09/093,972 : Examiner: Dr. Epps
Filed: June 9, 1998 : Appl. Ref. No.: EPI-00672
For: **COMPOSITION, FORMULATIONS & METHOD FOR PREVENTION &
TREATMENT OF DISEASES AND CONDITIONS ASSOCIATED WITH
BRONCHOCONSTRICTION, ALLERGY(IES) & INFLAMMATION**

COVER SHEET

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir/Madam:

Enclosed for filing is the following:

1. Continued Prosecution Application (CPA) Request Transmittal (PTO/SB/29)
(in duplicate) (2 pgs)
2. Supplemental Amendment of October 26, 2001 (29 pgs)
3. This Cover Sheet (1 pg)
4. Certificate under 37 CFR 1.10
5. Express Mail No. **EL836372650US**
6. Return Postcard

Respectfully submitted.
EPIGENESIS PHARMACEUTICALS, INC.

Viviana Amzel, Ph. D.
Reg. No. 30,930

November 7, 2001
Date

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Cranbury, NJ 08512
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VAmzel@epigene.com E-mail

I hereby certify that this correspondence is being
deposited with the United States Postal Service, ~~First~~ *Express*
~~Class Mail~~, under 37 CFR 1.10 and addressed to Box
CPA, Assistant Commissioner for Patents, on November
7, 2001 by Rashida Haji.

SIGNATURE



01-0702

CPA/1635\$

PTO/SB/29 (10-00)
Approved for use through 10/31/2002. OMB 0651-0032
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CONTINUED PROSECUTION APPLICATION (CPA) REQUEST TRANSMITTAL

Submit an original, and a duplicate for fee processing.

(Only for Continuation or Divisional applications under 37 CFR 1.53(d))

CHECK BOX, if applicable

☒ DUPLICATE

Address to:

Assistant Commissioner for Patents
Box CPA
Washington, DC 20231

Attorney Docket No.
of Prior Application

EPI-00672

First Named Inventor

Jonathan W. Nyre

Examiner Name

Dr. Janet Epps

Group Art Unit

1635

Express Mail Label No.

EL 836 372 650 US

This is a request for a ☒ continuation or ☐ divisional application under 37 CFR 1.53(d),
(continued prosecution application (CPA)) of prior application number 09/093,972

filed on June 9, 1998, entitled Composition, Formulation & Method for Prevention & Treatment of Diseases and conditions associated with Bronchoconstriction, Allergies & Inflammation

NOTES

FILING QUALIFICATIONS: The prior application identified above must be a nonprovisional application that is either: (1) complete as defined by 37 CFR 1.51(b), or (2) the national stage of an international application in compliance with 35 U.S.C. 371. Effective May 29, 2000, a CPA may only be filed in a utility or a plant application if the prior nonprovisional application was filed before May 29, 2000. A CPA may be filed in a design application regardless of the filing date of the prior application. See "Request for Continued Examination Practice changes to and Provisional Application Practice," Final Rule, 65 Fed. Reg. 50092 (Aug. 16, 2000); Interim Rule, 65 Fed. Reg. 14865 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office (Apr. 11, 2000).

C-I-P NOT PERMITTED: A continuation-in-part application cannot be filed as a CPA under 37 CFR 1.53(d), but must be filed under 37 CFR 1.53(b).

EXPRESS ABANDONMENT OF PRIOR APPLICATION: The filing of this CPA is a request to expressly abandon the prior application as of the filing date of the request for a CPA. 37 CFR 1.53(b) must be used to file a continuation, divisional, or continuation-in-part of an application that is not to be abandoned.

ACCESS TO PRIOR APPLICATION: The filing of this CPA will be construed to include a waiver of confidentiality by the applicant under 35 U.S.C. 122 to the extent that any member of the public who is entitled under the provisions of 37 CFR 1.14 to access to, copies of, or information concerning, the prior application may be given similar access to, copies of, or similar information concerning, the other application or applications in the file jacket.

35 U.S.C. 120 STATEMENT: In a CPA, no reference to the prior application is needed in the first sentence of the specification and none should be submitted. If a sentence referencing the prior application is submitted, it will not be entered. A request for a CPA is the specific reference required by 35 U.S.C. 120 and to every application assigned the application number identified in such request, 37 CFR 1.78(a).

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

1. ☒ Enter the unentered amendment previously filed on October 26, 2001 under 37 CFR 1.116 in the prior nonprovisional application.
2. ☐ A preliminary amendment is enclosed.
3. This application is filed by fewer than all the inventors named in the prior application, 37 CFR 1.53(d)(4).
 - a. ☐ DELETE the following inventor(s) named in the prior nonprovisional application:
.....
 - b. ☐ The inventor(s) to be deleted are set forth on a separate sheet attached hereto.
4. ☐ A new power of attorney or authorization of agent (PTO/SB/81) is enclosed.
5. Information Disclosure Statement (IDS) is enclosed:
 - a. ☐ PTO-1449
 - b. ☐ Copies of IDS Citations

[Page 1 of 2]

Burden Hour Statement: This form is estimated to take 0.4 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box CPA, Washington, DC 20231.

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CLAIMS	(1) FOR	(2) NUMBER FILED	(3) NUMBER EXTRA	(4) RATE	(5) CALCULATIONS
	TOTAL CLAIMS (37 CFR 1.16(c) or (j))	-20* =		x \$ _____ =	\$ _____
	INDEPENDENT CLAIMS (37 CFR 1.16(b) or (i))	-3** =		x \$ _____ =	\$ _____
	MULTIPLE DEPENDENT CLAIMS (if applicable) (37 CFR 1.16(d))			+ \$ _____ =	\$ _____
				BASIC FEE (37 CFR 1.16)	\$ _____
				Total of above Calculations =	\$ _____
	Reduction by 50% for filing by small entity (Note 37 CFR 1.27).				
	* Reissue claims in excess of 20 and over original patent.			TOTAL =	
	** Reissue independent claims over original patent.				

6. ☒ Small entity status: Applicant claims small entity status. See 37 CFR 1.27.
7. The Commissioner is hereby authorized to credit overpayments or charge the following fees to Deposit Account No. 50 - 1728:
a. ☐ Fees required under 37 CFR 1.16.
b. ☐ Fees required under 37 CFR 1.17.
c. ☐ Fees required under 37 CFR 1.18.
8. ☐ A check in the amount of \$ _____ is enclosed.
9. ☐ Payment by credit card. Form PTO-2038 is attached.
10. ☐ Applicant requests suspension of action under 37 CFR 1.103(b) for a period of _____ months (not to exceed 3 months) and the fee under 37 CFR 1.17(i) is enclosed.
11. ☐ New Attorney Docket Number, if desired _____
[Prior application Attorney Docket Number will carryover to this CPA unless a new Attorney Docket Number has been provided herein.]
12. a. ☐ Receipt For Facsimile Transmitted CPA (PTO/SB/29A)
b. ☒ Return Receipt Postcard (Should be specifically itemized, See MPEP 503)
13. ☐ Other: _____

NOTE:

The prior application's correspondence address will carry over to this CPA
UNLESS a new correspondence address is provided below.

14. NEW CORRESPONDENCE ADDRESS					
<input type="checkbox"/> Customer Number or Bar Code Label		<input checked="" type="checkbox"/> New correspondence address below			
(Insert Customer No. or Attach bar code label here)					
Name	Viriana Amzel				
Address	EpiGenesis Pharmaceuticals, Inc. 7 Clarke Drive				
City	Cranbury	State	NJ	Zip Code	08512
Country	USA	Telephone	609-409-3035	Fax	413-254-9245

15. SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print /Type)	Viriana Amzel, PhD.
Signature	<i>V. Amzel</i>
Registration No. (Attorney/Agent)	50,930
Date	November 2, 2001



EPI-0672

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Jonathan W. Nyce : Art Unit: 1635
Serial No.: 09/093,972 : Examiner: Dr. Epps
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SUPPLEMENTAL AMENDMENT

I hereby certify that this correspondence is being faxed at 703-305-7939, to the Assistant Commissioner for Patents, Washington DC 20231 on October 26, 2001, by Rashida Haji.

SIGNATURE

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir/Madam:

Supplemental to the Response to the Office Action of November 7, 2000, filed March 28, 2001, a Notice of Appeal having been filed May 4, 2001, and Supplemental Amendments filed July 12 and 16, 2001, the period for responding having been extended previously to September 7, 2001 by the filing of a Petition and a fee of \$195.- on August 21, 2001, and herewith similarly to November 7, 2001 with a fee of \$525.- (\$720.- - \$195.-), please amend the above identified patent application as follows.

IN THE CLAIMS

Please delete the claims as shown in the attachments.

REMARKS**THE INTERVIEW**

Applicant thanks Dr. Epps for an interview she granted him and his attorney on October 24, 2001. During the interview the applicant explained the criticality of particle size in claim 173, and it was agreed that two separate ranges would be incorporated as described by the application as filed. The present text of claim 173 is patentably distinguishable over the Bennett patent cited earlier by the examiner. The remaining objections to the claim language raised by the examiner have also been addressed by the present amendments. The examiner is requested to consider the claims as they are submitted and allow this application.